

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES L. BLAYLOCK,

Plaintiff,

v.

Case No. 22-10831

BECKY CARL, DYER, JACOBS,
S. SALINAS, and J. GARCIA

Sean F. Cox
United States District Court Judge

Defendants.

ORDER

ADOPTING 11/30/23 REPORT AND RECOMMENDATION

Acting *pro se*, Plaintiff James L. Blaylock (“Plaintiff”) filed this action on April 19, 2022, along with an application to proceed *in forma pauperis*, which this Court granted.

Because Plaintiff is proceeding *in forma pauperis*, the applicable statute requires this Court to dismiss this case, at any time, if it fails to state a claim upon which relief may be granted. *See* 28 U.S.C. § 1915(b)(2) (“the court shall dismiss the case at any time if the court determines that” the action “fails to state a claim on which relief may be granted.”).

On November 2, 2022, this Court referred this matter to the magistrate judge for all pretrial proceedings.

On July 7, 2023, Defendants filed their summary judgment motion. (ECF No. 33). On October 10, 2023, Plaintiff filed his own motion for summary judgment. (ECF No. 39). Both motions were fully briefed. (ECF Nos. 35, 36, 41, and 45).

On November 30, 2023, Magistrate Judge Kimberly G. Altman issued a Report and Recommendation (“R&R”) wherein she recommended that the Court **grant in part and deny in**

part Defendants' motion for summary judgment and deny Plaintiff's motion for summary judgment. (ECF No. 46).

The matter is now before this Court on Plaintiff's objections to the magistrate judge's R&R. (ECF No. 47). Plaintiff filed a timely response to the objections. (ECF No. 48).

Pursuant to Fed. R. Civ. P. 72(b), this Court reviews *de novo* any part of the magistrate judge's R&R that has been properly objected to. This Court "may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." *Id.*

Plaintiff makes four objections to the magistrate judge's R&R.

First, Plaintiff argues that the Magistrate Judge should not have recommended granting summary judgment for Defendants Salinas, Garcia, and Carl. (ECF No. 47, PageID.356). Plaintiff claims Defendants denied his grievance as retaliation against him, and that as a result, summary judgment should not be granted in their favor. (*Id.*) However, Defendants note Plaintiff cites no case law in support of this argument. (ECF No. 48, PageID.360–61). Defendants also argue the denial of an administrative grievance does not subject supervisors to liability under § 1983. (*Id.*)

Second, Plaintiff argues he has in fact shown a constitutional violation of the 8th Amendment by Defendants Salinas and Garcia because they were aware of his "mental instabilities [and] did nothing about it." (ECF No. 47, PageID.357). As such, Plaintiff argues Defendants Salinas and Garcia should not be granted qualified immunity. (*Id.*) Defendants disagree. They again argue that the denial of administrative grievances or the failure to act does not subject supervisors to liability under § 1983. (ECF No. 48, PageID.361).

Third, Plaintiff argues Defendant Jacobs did in fact have a say in the recommendation for Plaintiff to remain in segregation. (ECF No. 47, PageID.357). As such, Plaintiff believes summary

judgment should not be granted in Defendants' favor as to Plaintiff's due process claim. (*Id.*) However, as Defendants note, Plaintiff provides no support for this claim. (ECF No. 48, PageID.362).

Finally, Plaintiff argues Defendant Jacobs was aware of Plaintiff's mental deficiencies and did nothing about it. (ECF No. 47, PageID.357). He argues this constitutes a violation of Plaintiff's constitutional rights under the 8th Amendment, and that as such Defendant Jacobs should not be granted qualified immunity. (*Id.*) Defendants disagree. They argue Plaintiff provides no "verifiable proof" of these claims and that Plaintiff's objection should therefore be denied. (ECF No. 48, PageID.362).

The Court disagrees with Plaintiff's objections and concurs with the magistrate judge's analysis and conclusions in her R&R.

Accordingly, the Court **OVERRULES** Defendant's Objections and **ORDERS** that the November 30, 2023, R&R is **ADOPTED**.

IT IS SO ORDERED.

Dated: March 13, 2024

s/Sean F. Cox

Sean F. Cox
U. S. District Judge